

**TEXAS DEPARTMENT OF STATE HEALTH SERVICES**



**DIVISION FOR REGULATORY SERVICES  
ENVIRONMENTAL AND CONSUMER SAFETY SECTION  
POLICY, STANDARDS, AND QUALITY ASSURANCE UNIT  
PUBLIC SANITATION AND RETAIL FOOD SAFETY  
GROUP**

**PUBLIC SANITATION AND RETAIL FOOD SAFETY GROUP  
REGULATORY CLARIFICATIONS**

**DATE: 7/6/2016**

**PSRFSGRC - No. 20**

**SUBJECT: SELLING NON-CHICKEN EGGS (NCE) TO A RETAIL FOOD  
ESTABLISHMENT**

**Applicable Texas Food Establishment Rules (TFER) Sections:**

§228.2 (42) Definition of Egg

§228.62 (a)(1) Approved Source

§228.63(a)(3); §228.63 (a)(7); §228.63 (c) Specifications for receiving

**Question:** Can I sell non-chicken eggs to a retail food establishment?

**Response:** Yes, under the following stipulations:

- A farm may sell non-chicken eggs (NCE) without a license, provided certain labeling and packaging requirements are met and temperature controls are maintained;
- Farms selling non-chicken eggs are considered an “approved source” for purposes of the Texas Food Establishment Rules (TFER);
- If an entity meets the definition of a Food Wholesaler of food products, including non-chicken eggs, they must possess a license as a manufacturer or wholesaler issued by the Texas Department of State Health Services (DSHS);  
<http://www.dshs.texas.gov/foods/forms.aspx>
- All eggs must be stored at a temperature of 45° Fahrenheit or less; and;
- The egg cartons must be labeled as ‘ungraded’, contain safe handling instructions, and provide the farmer’s or manufacturer/distributor’s name and address.

**Support:**

Public Sanitation and Retail Food Safety Group • PO Box 149347, Mail Code 1987 • Austin, Texas 78714-9347  
(512) 834-6753 • Facsimile: (512) 834-6683 • <http://www.dshs.state.tx.us/foode establishments/>

§228.2 (42) defines an Egg as a ‘shell egg of an avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. The definition of an egg does not include a balut, shell egg of reptile species such as an alligator, or an egg product.’

§228.62 (a)(1) requires that all “food shall be obtained from sources that comply with applicable laws and are licensed by the state regulatory authority having jurisdiction over the processing and distribution of the food.” The Texas Department of Agriculture (TDA) is the agency in Texas that issues licenses to persons that buy or sell chicken eggs, to persons or facilities that grade, size and class chicken eggs, to chicken egg brokers and to facilities that store, pack or process chicken eggs. The licensing requirements are part of the Egg Law, TAC Title 4, Part 1, Chapter 15.

A non-chicken egg wholesaler/distributor licensed as a manufacturer or wholesaler by DSHS Food Group would meet the requirement in TFER §228.62 (a)(1) relating to Approved Source.

§228.63 (a)(7) Eggs that have not been specifically treated to destroy all viable Salmonellae shall be labeled to include safe handling instructions as specified in law, including 21 CFR §101.17(h).

§228.63(a)(3) Raw shell eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 7 degrees Celsius (45 degrees Fahrenheit) or less.

§228.63 (c) Eggs. Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR 56, Voluntary Grading of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs, and 9 CFR 590, Inspection of Eggs and Egg Products. The grading requirement is not applicable for non-chicken eggs. Non-chicken eggs shall be received clean and sound.

## **Response To:**

Inquiry from a Quail Egg Farm.

Agree to form and substance:



Christopher Sparks, MPA, R.S.

Manager

Public Sanitation and Retail Food Safety Group

This Regulatory Clarification preempts any previous clarification/guidance/policy letters on this subject and remains in effect until superceded in writing by the Public Sanitation and Retail Food Safety Group. Attributed use or reproduction of this information is freely granted.